

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FOUNTAINHEAD MANAGEMENT,
INC.

V.

SEAN ROBERTS

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CASE NO. 4:11CV172
Judge Schneider/Judge Mazzant

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On June 10, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations with regard to Plaintiff's Motion to Dismiss Under Rule 12(b) for Lack of Jurisdiction, or Failure to State a Claim and to Remand Case to State Court (Dkt. #13), recommending that the motion to remand should be granted.

The Court, having made a *de novo* review of Plaintiff Fountainhead Management's Limited Objection to the Report and Recommendation (Dkt. #27), Defendant Sean Roberts' Response to Plaintiff's Amended Motion to Remand and to Plaintiff's Limited Objection (Dkt. #28), Defendant Sean Roberts' Objections to the Proposed Findings and Recommendations (Dkt. #30), Plaintiff's Reply to Defendant's Response to Plaintiff's Amended Motion to Remand and to Defendant's Objections (Dkt. #31), and Defendant Sean Roberts' Motion to Sustain Removal Based Upon Plaintiff's Affirmative Conduct Within the Federal Forum Following Removal (Dkt. #32), is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Plaintiff's Motion to Dismiss Under Rule 12(b) for Lack of Jurisdiction, or Failure to State a Claim and to Remand Case to State Court (Dkt. #13) is **GRANTED** and the case is **REMANDED** to the Justice of the Peace Court, Precinct 1, Cooke County, Texas.

IT IS SO ORDERED.

SIGNED this 12th day of July, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE